



Superior Court of California, County of Riverside
Purchasing Division
4050 Main Street, Lower Level
Riverside, CA 92501

TO: POTENTIAL BIDDERS

FROM: Riverside Superior Court
Procurement Department

DATE: February 2, 2012

SUBJECT/PURPOSE OF MEMO: Invitation For Bid ("IFB")

ACTION REQUIRED: You are invited to review and respond to the attached (IFB):
Project Title: Employment Verifications Services
IFB Number: ECD-201112-010

QUESTIONS TO THE SOLICITATIONS MAILBOX: Questions regarding this IFB must be directed to Luana Eutsler
Email: luana.eutsler@riverside.courts.ca.gov
by Thursday, February 9, 2012 @ 5:00 p.m. (Pacific Standard Time)

PROPOSAL DUE DATE AND TIME: **Bids must be received by Wednesday, February 22, 2012 @ 3:00 p.m. (Pacific Standard Time)**

SUBMISSION OF PROPOSALS: Bid must be sent to:
Riverside Superior Court
Attn: Luana Eutsler, IFB #ECD--201112-010
Executive Office, 1st Floor
4050 Main Street
Riverside, CA 92501

FOR FURTHER INFORMATION: E-MAIL: luana.eutsler@riverside.courts.ca.gov

BIDDER TO COMPLETE ALL SHADED AREAS

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENSION
			<p>The Riverside Superior Court is soliciting bids for Employment Verification Services for Enhanced Collections Services as detailed on page <u>6</u> of this IFB.</p> <p><u> X </u> FAXED OR EMAILED BIDS are NOT acceptable</p> <p>BID DUE: Wednesday, February 22, 2012 @ 3:00 p.m. (pst)</p> <p>Late bids will NOT be accepted.</p> <p>All bids must include all applicable fees, training expenses, permits, etc.</p>		
"Execution hereof is certification that the undersigned has read and understands the terms and conditions hereof, and that the undersigned's principal is fully bound and committed."			1. Total Cost Product/Service:		
Company Name:			2. Handling Charges (If tangibles are needed -Taxable):		
			3. Applicable Sales Tax:		
Street Address:			4. Insurance (Non-Tax):		
Mailing Address:			5. Subtotal Cost:		
City :	State:	Zip:	6. Total Shipping Cost (FOB Destination):		
Remit to Address:			7. Total Delivered Cost (5+6):		
City:	State:	Zip:	Sales Representative Name:		
Phone # ()			Phone Number:		
Fax # ()			Email:		
Name:		Title:	Mobile Phone Number:		
E-mail Address:			Company Website:		
EIN# / SS#			Please Check: _____ Certified Disabled Veteran Business Enterprise		
Signature: _____			Delivery: _____ calendar days after receipt of order.		
Date: _____					

BID INSTRUCTIONS

SUBMITTAL OF BIDS AND RESERVATION OF RIGHTS

The vendor must complete one copy of the Invitation For Bid form ("IFB form"), and deliver it to Riverside Superior Court ("the Court") contact listed on the IFB form. The cost portion of the bid must be submitted in a sealed envelope separate from the remainder of the bid. The Court must receive the bid submittal prior to date and time indicated.

All information entered on the IFB must be clearly written or typed. No erasures are permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by the person signing the IFB.

The Court reserves the right to reject any and all bids, in whole or in part, as well as the right to issue similar IFBs in the future.

IFB ADDENDA

The Court may modify this solicitation document prior to the date fixed for submission of bids by providing notice to potential bidders. If any potential vendor determines that an addendum unnecessarily restricts its ability to bid, it must notify the Court no later than three (3) business days following the date the addendum was provided.

Pricing shall reflect all addenda issued by the Court. Failure to do so will permit the Court to interpret the bid to include all addenda issued in any resulting contract.

PRE-BID CONFERENCE WALK-THROUGH

The Court may require that interested vendors attend a mandatory pre-bid conference to discuss the scope of work. If the Court elects to require a pre-bid conference, the Court will notify vendors of the location, date and time. In the event a potential vendor is unable to attend the pre-bid conference, an authorized representative may attend on their behalf. A representative may only sign in for one vendor. Bids from vendors who did not attend the pre-bid conference will not be accepted and will be returned unopened.

AMBIGUITY, DISCREPANCIES, OMISSIONS

If a vendor submitting a bid discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the vendor shall immediately provide the Court written notice of the problem and request that the solicitation document be clarified or modified.

If prior to the bid submittal deadline a vendor submitting a bid knows of or should have known of an error in the solicitation document but fails to notify the Court of the error, the vendor shall submit a bid at its own risk, and if the vendor is awarded the purchase, the vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.

CONTACT WITH COURT

Questions regarding this IFB must be directed to the individual named in the Court Contact Info on the IFB form. Vendors are specifically directed NOT to contact any other Court personnel or consultants regarding this IFB at any time prior to bid award. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the vendor's response.

QUESTIONS REGARDING THE IFB

If a Bidder's question relates to a proprietary aspect of its bid and the question would expose proprietary information if disclosed to competitors, the Bidder may submit the question via email to luana.eutsler@riverside.courts.ca.gov, conspicuously marking it as "CONFIDENTIAL." With the question, the Bidder must submit a statement explaining why the question is sensitive. If the Court concurs that the

Project Title: Employment Verification Services

IFB Number: ECD-201112-010

disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the Court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Bidder will be notified.

IFB ATTACHMENTS

The following attachments are included as part of this IFB:

ATTACHMENT	DESCRIPTION
Attachment A: Standard Draft Agreement	The winning bidder must be prepared to sign a Court Standard form agreement, embodied in the attached Standard Draft Agreement. The requested goods and services shall be governed by all terms and conditions contained therein ("Terms and Conditions").
Attachment B: Proposer's Acceptance of Terms and Conditions	<p>On this form, the Bidder must indicate acceptance of the Terms and Conditions and affirm the certifications contained therein. Otherwise, the Proposer must identify any exceptions to the Terms and Conditions, as described below.</p> <p>An "exception" includes any addition, deletion, qualifications, limitation or other change. If exceptions are identified, the bidder must submit a red-lined version of the Standard Draft Agreement that clearly tracks proposed changes and a written explanation or rationale for each exception and/or proposed change.</p> <p>Numerous, onerous, and/or burdensome exceptions taken may result in a bid being deemed non-responsive, within the discretion of the Court.</p> <p>Additionally, any proposed exception to any minimum terms and conditions will render a bid non-responsive. Such minimum terms and conditions are in the General Terms and Conditions: Section #2 Contractor Certification Clauses; Section #6 Indemnity; Section #8 Limitation of Liability; and, Section #31 Choice of Law and Jurisdiction</p> <p>All other terms and conditions or certifications not excepted by the Bidder shall be deemed to be accepted and affirmed by the Bidder.</p>

CONFIDENTIAL OR PROPRIETARY INFORMATION

All materials submitted in response to this solicitation will become the property of the Court and will be returned only at the Court's option and at the expense of the vendor submitting the bid. One copy of a submitted bid will be retained for official files and become a public record. Any material that a vendor considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the vendor's bid as it may be made available to the public.

ERROR IN SUBMITTED BID

If an error is discovered in a vendor's bid, the Court may at its sole option retain the bid and allow the vendor to submit certain arithmetic corrections. In determining if a correction will be allowed, the Court

Project Title: Employment Verification Services

IFB Number: ECD-201112-010

will consider the conformance of the bid to the format and content required by the solicitation, the significance and magnitude of the correction, and any unusual complexity of the format and content required by the solicitation.

If prior to an award, a vendor discovers a mistake in their bid that renders the vendor unwilling to perform under any resulting contract, the vendor must immediately notify the Court in writing and request to withdraw the bid. It shall be solely within the Court's discretion as to whether withdrawal will be permitted.

RIGHT TO REJECT BIDS

Before the bid due date and time listed in the timeline of the IFB, the Court may cancel the IFB for any or no reason. After the bid due date and time listed in the timeline of the IFB, the Court may reject all bids and cancel the IFB if the Court determines that: (i) the bids received are not really competitive; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Court.

The Court may or may not waive an immaterial deviation or defect in a bid. The Court's waiver of an immaterial deviation or defect shall in no way modify the IFB or excuse a Bidder from full compliance with IFB specifications. Until a contract resulting from this IFB is signed, the Court reserves the right to accept or reject any or all of the items in the bid, to award the contract in whole or in part and/or negotiate any or all items with individual Bidders if it is deemed in the Court's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Bidder.

The Court reserves the right to issue similar IFBs in the future. The IFB is in no way an agreement, obligation, or contract and in no way is the Court or the State of California responsible for the cost of preparing the bid

DISABLED VETERAN BUSINESS ENTERPRISE PREFERENCE

The Court has waived the inclusion of DVBE participation in this solicitation. As such, DVBE incentives will not be awarded or considered in this solicitation.

PERIOD OF FIRM PRICING

Unless stated otherwise elsewhere in this document, prices shall be firm for 150 days after the closing date, and prior to an award being made.

OFFER PERIOD

A Bidder's bid is an irrevocable offer for one hundred fifty (150) days following the bid due date. In the event a final contract has not been awarded within this period, the Court reserves the right to negotiate extensions to this period.

NEWS RELEASES

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Court.

PROTEST

To obtain the Court's protest procedures, please go to our website at www.riverside.courts.ca.gov/procurement/procurement.shtml.

End of Instructions

APPENDIX A

DESCRIPTION

1.0 STATEMENT OF WORK

1.1 PURPOSE

To contract with a vendor to provide Employment and Salary Data by ascertaining the debtor's current salary and employment information to assist in determining his or her ability to pay court fines and fees. This information will be utilized by Court staff in the Enhanced Collection Division county-wide.

1.2 PERIOD OF PERFORMANCE

The majority of the work will be performed at the Riverside Centre unit, however, all offices of the court may utilize the tool as needed. The services will be performed Monday thru Friday, 7:30 am – 4:30 pm. The services will begin immediately upon award of a contract.

The term of this contract shall be for three years with two options to extend, each option consisting of one-year periods.

1.3 DETAILED DESCRIPTION OF SERVICES

The service is needed to determine the debtor's place of employment and current salary prior to processing wage garnishments. The court will need On-line access to verify information. The court will need access to recent check stubs, and other information which allows the court to review the debtor's following information:

- Verify income –net and gross wages
- Current Employment Records only. The court shall not be charged a transaction fee for records that are outdated.
- Employment status – temporary, full-time, part-time
- Date of hire
- Verify we have the correct person by obtaining the employment report using Social Security Number
- Receive date of birth
- Receive the debtor's residential address
- Receive year-to-date wages
- Receive the company corporate address
- Existing wage garnishment information for employee/debtor
- A local address where the debtor is working
- Debtors phone number

1.4 TRAINING

Provide staff with training, if needed.

1.5 DELIVERABLES SCHEDULE

The data should be real-time and available upon request with each staff assigned a private access code. The court shall not be liable for using the data supplied by the vendor.

1.6 PAYMENT SCHEDULE & TOTAL AMOUNT

Billing: per transaction fee. Transaction fee – the fee charged for each record search (all inclusive fee for all information obtained from search).

Payment and invoicing shall be in accordance with Exhibit B of Attachment A.

1.7 ACCEPTANCE CRITERIA

The data received from the vendor must be reliable from a reputable source.

1.8 APPLICABLE STANDARDS

Vendor is expected to maintain all court submissions in strict confidence and should not disclose or sell any information to other companies, businesses, law firms, etc. The rules should be governed by the laws of the State of California. The agreement may not be sold, assigned, or subcontracted to an outside agency without the expressed permission of the court.

1.9 PERSONNEL & CONTACTS

Enhanced Collection Division (ECD) would need responsiveness on the part of the agency. Quick responses to emails and phone calls, and all errors must be corrected within 24 hours.

2.0 TIMELINE	DATES:
1. RELEASE OF INVITATION FOR BID	February 2, 2012
2. DEADLINE FOR SUBMISSION OF QUESTIONS Email: luana.eutsler@riverside.courts.ca.gov) (by E-mail only)	Thursday, February 9, 2012 @ 5:00 p.m.
3. ANSWERS TO QUESTIONS POSTED on courts website @www.riverside.court.ca.gov/procurement/procurement.shtml	Tuesday, February 14, 2012 @ by 5:00 p.m.
4. DEADLINE FOR BID SUBMITTAL/PUBLIC OPENING OF BID (Note: Bidders may attend bid-opening) Location: Riverside Superior Court Historic Courthouse – Judicial Conference Room 4050 Main St. Riverside, CA 92501 No late bids will be accepted	Wednesday, February 22, 2012 @ 3:00 p.m.

5. TENTATIVE DATE FOR AWARDING CONTRACT	5-150 days, contingent upon lowest responsible bidder meeting all of the bid specifications.
6. NOTICE OF AWARD	A notice of intent to award will be posted on the court's website at least 24 hours before the contract is awarded.

3.0 INVITATION FOR BID - SUBMITTAL

The Bidder must submit its bid in two parts, the non-cost information and the cost information.

1. The Bidder must submit **one (1) original and two (2) copies** of the non-cost information. The original must be signed by an authorized representative of the Bidder. The non-cost information (including all copies thereof) must be submitted to the Court in a single sealed envelope, separate from the cost information. The Bidder must write the IFB title and number on the outside of the sealed envelope.
2. The Bidder must submit **one (1) original and two (2) copies** of the cost information. The original must be signed by an authorized representative of the Bidder. The cost information (including all copies thereof) must be submitted to the Court in a single sealed envelope, separate from the non-cost information. The Bidder must write the IFB title and number on the outside of the sealed envelope.
3. The Bidder must submit an electronic version of the entire bid on CD-ROM. The files contained on the CD-ROM should be in PDF, Word, or Excel formats.

This bid must be signed by an authorized agent and placed in a sealed envelope clearly marked "Invitation for Bid".

ALL BIDS MUST BE SUBMITTED TO: Riverside Superior Court
Attn: Luana Eutsler, IFB #ECD-201112-010
Executive Office, 1st Floor
4050 Main Street
Riverside, CA 92501

IFB must be received TBD (Pacific Standard Time)

4.0 EVALUATION/METHOD OF AWARD (Specifications)
--

Bid's will be evaluated based on relevant factors, including but not limited to the following:

- Lowest overall purchase price
 - Adherence to specifications as detailed in this IFB#ECD-201112-010
 - Experience with projects of similar size and scope
1. Award of contract, if made, will be in accordance with the IFB to the lowest responsible Bidder submitting a bid compliant with all the requirements of the IFB and any addenda thereto, except for such immaterial defects as may be waived by the Court.
 2. The Court reserves the right to determine the suitability of bids on the basis of a bid's meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items bid, and cost.
 3. An evaluation team will review all bids that are received by the appropriate deadline to determine the extent to which they comply with IFB requirements.
 4. Bids that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the evaluation team regarding a requirement of the IFB.
 5. Cost information will be opened only if the non-cost information of the bid is determined to be responsive. All figures entered on the cost information must be clearly legible.
 6. During the evaluation process, the Court may require a Bidder's representative to answer questions with regard to the Bidder's bid. Failure of a Bidder to demonstrate that the claim made in its bid are in fact true may be sufficient cause for deeming a bid non-responsive.
 7. During the evaluation process, the Court may perform certain checks to determine if a Bidder is deemed ineligible for contract award. For example, Bidder must be qualified to do business in California and in good standing, and must not be in violation of the Recycled Content Plastic Trash Bag Law.
 8. The Court will make a reasonable effort to execute any contract based on this IFB within one hundred fifty (150) days of selecting a bid that best meets its requirements. However, exceptions taken by a Bidder may delay execution of a contract.
 9. A Bidder submitting a bid must be prepared to use a standard Court contract form rather than its own contract form.

10. Upon award of the agreement, the agreement shall be signed by the Bidder in two original contract counterparts and returned, along with the required attachments, to the Court no later than five (5) business days of receipt of agreement form. Agreements are not effective until executed by both parties and approved by the appropriate Court officials. Any work performed prior to receipt of a fully-executed agreement shall be at Bidder's own risk. If the successful Bidder refuses or fails to execute the contract, the Court may award the contract to the next qualified Bidder.

5.0 TECHNICAL BID

Responsive bids will provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the Riverside Superior Court instructions, requirements of this IFB, and completeness and clarity of content.

The person or entity submitting a bid ("Bidder") must include the following information in the technical portion of the bid:

1. Name, address, telephone and fax numbers, and federal tax identification number. Note that if a sole proprietor using his or her social security number is awarded a contract, the social security number will be required before finalizing a contract.
2. Proof of adequate insurance described in Attachment A.
3. If Bidder is a corporation, proof that Bidder is in good standing and qualified to conduct business in California (e.g., copies of current business licenses).
4. Names, addresses, and telephone numbers of a minimum of five (5) clients for whom the Bidder has conducted similar size and scope of services. Please provide detail of those services. The evaluation team or its designee may check references listed by the Bidder.
5. Adherence to bid specifications as listed in Section 1.0, Statement of Work.

6.0 COMPENSATION

The Court does not make any advance payment for Services. Payment is normally made based upon completion of tasks as provided in the contract between the Court and the selected Bidder. The Court may withhold ten percent of each invoice until receipt and acceptance of the final deliverable. The amount of the withhold may depend upon the length of the project and payment schedule provided in the contract between the Court and the selected Bidder.

7.0 USE BY OTHER POLITICAL ENTITIES
--

The Bidder agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in the State of California. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the Bidder; and the Court shall in no way be responsible to the Bidder for other entities' purchases.

APPENDIX B
BUDGET SHEET

Itemized Fee per Item (all inclusive)	Cost
Fee for service, per transaction fee* (income verification and SSN Search)	\$
Other (specify any additional cost the court will incur either one-time fee or on-going) List description of that cost	\$
Total per transaction fee	\$

*** Note: Transaction fee – fee charged for each record search (all inclusive fee for all information obtained from record).**

Delivery Date: _____

Delivery Lead Time – *Please state in Calendar days* _____

Prompt Payment Discount: _____

Company Name: _____
(Print)

Representative: _____ Title: _____
(Print)

Signature: _____ Date: _____

Bid must be complete and signed by the company's Authorized Agent.

ATTACHMENT A
STANDARD DRAFT AGREEMENT



AGREEMENT FOR _____ GOODS / SERVICES
BETWEEN
THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
AND
[_____]

AGREEMENT # _____

COMMENCES: _____

TERMINATES: _____

DOLLAR AMOUNT: _____

Project Title: Employment Verification Services

IFB Number: ECD-201112-010

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
STANDARD AGREEMENT FOR GOODS AND/OR SERVICES**

1. In this Agreement, the term "Contractor" refers to **[Contractor name]**, and the term "Court" refers to the Superior Court of California, County of Riverside.
-

2. This Agreement is effective as of _____ ("Effective Date") and _____ ("Expiration Date").

The Court may extend this Agreement upon the same terms and conditions set forth herein, with the exception of ____, which are delineated in Exhibit _____. This Agreement may be extended up to ____ times for ____ periods, through _____. Unless the option is affirmatively exercised in writing by the Court prior to the Expiration Date of this Agreement (or the date specified as the Expiration Date in the notice of an exercise of an option), this Agreement will be deemed terminated as of the Expiration Date and the Court will have no further obligations to Contractor.

3. The maximum amount the Court shall pay Contractor under this Agreement is _____.
-

4. The purpose of this Agreement is:

(The purpose listed above is for administrative reference only and does not define or limit the scope or extent of this Agreement)

5. The parties agree that this Agreement, made up of this Standard Agreement Coversheet and the Exhibits listed below and any referenced attachments ("Contract Documents"), contains the parties' entire understanding related to the subject matter of this Agreement and is mutually binding on the parties in accordance with its terms.

Exhibit A – Statement of Work

Exhibit B – Payment Provisions and Invoicing Procedures

Exhibit D – Information Technology (IT) Definitions, Terms and Conditions

It is the intention of both parties that all Contract Documents be read and construed as a unified whole whenever possible. However, in the event of a conflict between the terms of the Contract Documents, the following order of precedence shall govern and determine which terms prevail:

1. Standard Agreement Cover Sheet(s);
2. Exhibit A – Statement of Work;
3. Exhibit B – Payment Provisions and Invoicing Procedures;
4. Exhibit D – Special Definitions, Terms and Conditions; and

Any Amendments to this Agreement, starting with the most recent, shall take precedence over existing Contract Documents. In the event of a conflict between an Amendment and the terms of any other Contract Document, the terms of the Amendment shall prevail.

All Court-issued competitive solicitation and related documents (e.g., the Court's RFP, IFP, Addendum, Questions and Answers), and cost or technical specifications contained in Contractor's bid or proposal submitted in response to the Court's competitive solicitation, may be relied upon for the purpose of clarifying, illustrating, or explaining the intention and understanding of the parties as to the performance of this Agreement.

Project Title: Employment Verification Services

IFB Number: ECD-201112-010

5. Insurance. Contractor must procure and maintain the insurance coverages as marked below. Exhibit C (Court Standard Business Definitions, Terms and Conditions) describes the Court's specific insurance requirements.



Exhibit C Section 19.1 Insurance Requirements – General Coverage

OR



Exhibit C Section 19.2 Insurance Requirements – Specific Coverages



Workers Compensation/Employer's Liability



Comprehensive General Liability



Business Automobile Liability



Professional Liability



Sexual Misconduct



Commercial Crime

-
6. Contract Representatives: Notices, as required by this Agreement, will be provided to the following:

COURT:	CONTRACTOR:
Name, Title	Name, Title
Address	Address
City, State, ZIP	City, State, ZIP
Phone #	Phone #
Fax:	Fax:
E-Mail	E-Mail

-
7. Project Management Representatives: Correspondence regarding project-specific issues will be provided to the following:

COURT PROJECT MANAGER:	CONTRACTOR PROJECT LEAD:
Name, Title	Name, Title
Address	Address
City, State, ZIP	City, State, ZIP
Phone #	Phone #
E-Mail	E-Mail
Fax	Fax

Project Title: Employment Verification Services

IFB Number: ECD-201112-010



COURT'S SIGNATURE	CONTRACTOR'S SIGNATURE
COURT'S LEGAL NAME: SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE	CONTRACTOR'S LEGAL NAME: If Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc., and the state or territory where Contractor is organized: CONTRACTOR'S TAX IDENTIFICATION NUMBER: CONTRACTOR SELLER PERMIT NUMBER:
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i> 
PRINTED NAME AND TITLE OF PERSON AUTHORIZED TO BIND THE COURT TO THIS AGREEMENT Sherri R. Carter Court Executive Officer	PRINTED NAME AND TITLE OF PERSON AUTHORIZED TO BIND CONTRACTOR TO THIS AGREEMENT
ADDRESS Superior Court of California, County of Riverside 4050 Main Street – Executive Office Riverside, CA 92501	ADDRESS

EXHIBIT A
STATEMENT OF WORK

[as described in the Court's solicitation documents with possible selected provisions from Contractor's bid/proposal,,to be further detailed in final contract.

(BUYER'S NOTE: The Statement of Work from the IFB/RFP may become EXHIBIT A-1, and selected relevant portions of the incoming bid/proposal may become EXHIBIT A-2.)

- 1. Background and Purpose.**
- 2. Period of Performance.**
- 3. Description of Goods and/or Services.**
- 4. Special Provisions Relating to Contractor's Personnel.**
- 5. Inspection and/or Acceptance Criteria.**
- 6. Product or Service Warranties.**
- 7. Performance Bonds.**
- 8. Change Orders.**
- 9. Special Provisions Applicable to Certain Agreements.**

END OF STATEMENT OF WORK

EXHIBIT B

PAYMENT PROVISIONS AND INVOICING PROCEDURES

[as described in the Court's solicitation documents with possible selected provisions from Contractor's bid/proposal, to be further detailed in final contract]

1. Compensation.

2. Expenses.

- A. [If Applicable: Travel. If this Agreement specifically provides that the Court will reimburse travel-related expenses, the Court's policies and limits on such reimbursable expenses, as delineated in Exhibit C (Standard Business Definitions, Terms and Conditions), shall apply.]

3. Invoicing and Payment.

- A. The Court shall have no obligations to pay for any Work until one original and two copies of a correct, itemized invoice for the item is received by the Court's Project Manager. Contractor shall submit monthly invoices to the Court no later than the 15th day following the month for which Work was performed. Contractor shall adhere to reasonable billing guidelines issued by the Court from time to time.
- B. The Court shall endeavor to remit payment within thirty (30) days from the Court's approval of a correct, itemized invoice. Each invoice shall be printed on Contractor's standard printed bill form, and shall include; (i) the Agreement and Purchase Order number, (ii) Contractor's name and address, (iii) the nature of the invoiced charge, (iv) the total invoiced amount, and (v) such detail as is reasonably necessary to permit the Court to evaluate the Work performed, including the number of hours worked and the applicable hourly rate. Upon request by the Court, Contractor shall promptly correct any inaccuracy and resubmit the invoice.
- C. [If Applicable: Progress Payments, Retentions, Withholdings. If this Agreement specifically provides for the making of progress payments to Contractor, the Court shall make the progress payments in arrears not more frequently than monthly and at the successful completion of the clearly identifiable project milestones, which Contractor must successfully achieve as indicated in the Agreement. An amount no less than 10 percent of the amount of each installment may be withheld from each progress payment pending final completion of the Work, or, if the Agreement consists of the performance of separate and distinct tasks as distinct from milestones, upon completion of that task.]

END OF PAYMENT PROVISIONS AND INVOICING PROCEDURES

EXHIBIT C

STANDARD BUSINESS DEFINITIONS, TERMS AND CONDITIONS

PART A: DEFINITIONS

PART B: TERMS AND CONDITIONS

1. Accounting
2. Amendment
3. Assignment; Subcontracting; Successors
4. Audit; Ownership of Results; Retention of Records
5. Change Orders
6. Choice of Law; Jurisdiction and Venue
7. Confidential Information
8. Conflict of Interest; Prohibition Against Gratuities
9. Consideration
10. Contractor Certification Clauses
11. Contractor Status
12. Counterparts
13. Default and Remedies
14. Dispute Resolution
15. Entire Agreement
16. Force Majeure
17. Indemnification
18. Infringement Protection
19. Insurance Requirements
 - 19.1 General Coverages; or
 - 19.2 Additional Required Coverages
20. Limitation of Liability
21. Loss Leader
22. Modification
23. Non-Exclusivity
24. Notices
25. Prior Work
26. Prohibited Bids for End Product of this Agreement
27. Public Access to Records and Information
28. Public Contract Code
29. Scope of Work; Acceptance; Rejection
30. Shipping and Packing Slips
31. Standard of Performance; Warranties; Personnel Requirements; Background Checks
32. Stop Work
33. Survival
34. Termination
35. Time is of the Essence
36. Travel Rate Guidelines
37. Waiver; Severability
38. Work Site
39. Miscellaneous Provisions Applicable to Specific Contracting Situations

PART A: DEFINITIONS

1. **Administrative Office of the Courts (AOC):** Staff agency to the Judicial Council of California, the policy-making body of the California Court system.
2. **Agreement:** Entire integrated agreement, including all Contract Documents, Exhibits, referenced Attachments, and Amendments incorporated therein, signed by the Court and Contractor, for performance of the Work.
3. **Agreement Amount:** Total dollar amount of the Agreement.
4. **Amendment:** Written contract document issued by the Court, and signed by both Contractor and the Court, modifying the Agreement and identifying any of the following: (1) change in the Work; (2) change in Agreement Amount; (3) change in schedule for delivery and performance of Work; or (4) any change to other terms and conditions.
5. **Appropriation Year:** Authorized period of time for government spending for a defined purpose. The Appropriation Year for state-funded agreements ends on June 30th of each year. The Appropriation Year for federally funded agreements ends on September 30th of each year.
6. **Bid:** A response to a competitive solicitation issued by the Court, regardless of the type of solicitation document used by the Court (e.g., Request for Quote, Invitation for Bid, or Request for Proposal).
7. **Certificate of Insurance:** A document that provides evidence that an insurance policy has been underwritten and that includes a statement of the policy coverage.
8. **Compensation:** All remuneration owed to Contractor in respect of Work, including Contractor's professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.
9. **Confidential Information:** (i) Any financial, statistical, personal, technical, or other data or information that is designated confidential by a party to this Agreement; (ii) all information related to the business of the Court that may be obtained orally, in writing, or from any source, or on any court mainframe, court or judicial branch computer network or workstation, and all software, whether owned or licensed by the Court and whether accessed by Contractor by direct or remote access method; (iii) any information relating to the methods, processes, financial data, lists, apparatus, statistics, programs, research, development, or related information of the Court concerning the past, present, or future official business and/or the results of the provision of services to the Court; and (iv) information relating to Court personnel and Court users. Confidential Information does not include: (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information generally and lawfully available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
10. **Consulting Services:** Refers to the services performed under "Consulting Services Agreements," which are defined in Public Contract Code § 10335.5, substantially, as contracts that: (1) are of an advisory nature; (2) provide a recommended course of action or personal expertise; (3) have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and (4) are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type. The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract. "Consulting Services Agreements" do not include: (1) Contracts between a state agency and the federal government; or (2) Contracts with local agencies, as defined in Revenue and Taxation Code § 2211, to subvene federal funds for which no matching state funds are required.
11. **Court:** The Superior Court of California, County of Riverside.
12. **Court Personnel:** Members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of the Court.
13. **Court Property:** Includes monetary items such as currency, coins, precious metals, checks, notes, bonds, negotiable instruments, and securities, physical structures or real property, and all other things of value.
14. **Data:** Information, including, but not limited to, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.

15. **Deliverable:** Hardware, software, firmware, documentation, services or other items, specified in the Agreement, that Contractor shall complete and deliver or submit to the Court.
16. **DVBE:** An acronym for Disabled Veterans Business Enterprise.
17. **Expiration Date:** The last day of the Term, unless the Initial Term is extended by exercise of an option. In that event, the Expiration Date will instead refer to the date specified as the expiration date in the notice of exercise of the option.
18. **Initial Term:** The period commencing on the Effective Date and expiring on the Expiration Date set forth on the coversheet of this Agreement.
19. **Goods:** Goods to be furnished and/or serviced by Contractor as described in Exhibit A.
20. **Judicial Branch Contract Law (JBCL):** Part 2.5 of the Public Contract Code (PCC §§ 19201-19210).
21. **Judicial Branch Entity (JBE):** State of California public entity that includes the Supreme Court of California, any superior Court, any Court of appeal, the Judicial Council of California, the Administrative Office of the Courts, or the Habeas Corpus Resource Center, as defined in California Government Code § 900.3. These entities comprise the "Judicial Branch."
22. **Judicial Branch Personnel:** Members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.
23. **Loss:** As used in the indemnity provisions of this Agreement, includes any actions, claims, demands, causes of action, fines, penalties, losses, liabilities, damages, costs, expenses, and attorneys' fees.
24. **Material:** All types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication hardware and software.
25. **Notice:** Written document signed by an authorized representative of either party to this Agreement, providing formal notification and sent by either:
 - (1) depositing in the U. S. Mail or commercial express mail, prepaid, to the address of the authorized representative of the other party. Notice will be effective on the date of receipt; or
 - (2) hand-delivery to the other party's authorized representative, as set forth in the Agreement. This Notice shall be effective on the date of receipt.
26. **Option Period:** The period, if any, through which this Agreement may be extended by a party.
27. **Progress Payment:** Partial payment following the completion of a deliverable, milestone, or stage of progress under the Agreement.
28. **Project Lead:** Contractor's representative who will operate as the main interface with the Court regarding the Work to be performed under this Agreement.
29. **Project Manager:** Court representative who will operate as the main interface between Contractor and the Court regarding the Work to be performed under this Agreement.
30. **Proposal:** Response to a Request for Proposal that describes the offeror's approach, statement of work, schedule and cost to provide goods or services, as well as the ability to meet other relevant criteria established by the Court.
31. **Services:** Services to be performed by Contractor as described in Exhibit A.
32. **Statement of Work (SOW):** Detailed description or reference to the object of a contract (e.g., goods, services, information technology).
33. **Stop Work Order:** Written notice to Contractor from the Court, directing Contractor to stop performance of Work for a period of ninety (90) days following delivery of the order to Contractor, or for a longer period by mutual agreement of the parties.
34. **Subcontractor:** A person or business entity that has a contract (as an "independent contractor" and not an employee) with Contractor to provide some portion of the Work of this Agreement.
35. **Task:** One or more functions, services, or actions, as specified in the Agreement, to be performed by Contractor for the Court
36. **Term:** Comprises the Initial Term and any Option Period.
37. **Termination Date:** Has the same meaning as Expiration Date unless this Agreement is validly terminated before the applicable Expiration Date, in which case Termination Date means the effective date this Agreement is validly terminated.
38. **Third Party:** Any individual or entity not a party to the Agreement.
39. **Work:** Any or all labor, goods, services, Deliverables, equipment, supplies, Materials, Tasks, and any other items or activities to be furnished under this Agreement or are necessary for the performance and completion of Contractor's obligations in compliance with the requirements of the Agreement. Work may also include Tasks, Deliverables, and/or submittals required by individual work order(s).

PART B: GENERAL TERMS AND CONDITIONS

1. **Accounting.** Contractor will maintain a system of accounting and internal controls that meets Generally Accepted Accounting Principles (U.S. GAAP).
2. **Amendment.** No modifications, alterations, changes, or waiver to the Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment, signed by both parties, that specifically references and incorporates the terms of the Agreement into the written amendment.

3. Assignment; Subcontracting; Successors.

A. Assignment.

- (1) The Court may assign the Court's rights and duties (or subcontract portions of the Agreement) to any other public entity. The Court shall notify Contractor in writing within 30 days following the assignment.
- (2) In addition, either party may assign its rights and duties or subcontract portions of the Agreement to a third party, but only if the non-assigning party gives prior written consent to the assigning party. Consent may be withheld for any reason or no reason. If a non-assigning party does consent, the consent will take effect only if there is a written agreement between the assigning/subcontracting party and all assignees/subcontractors, stating that the assignees/subcontractors:
 - (a) are jointly and severally liable to the non-assigning party for performing the duties in the Agreement of the assigning/subcontracting party;
 - (b) affirm the rights granted in the Agreement to the non-assigning party;
 - (c) make the representations and warranties made by the assigning/subcontracting party in the Agreement; and
 - (d) appoint the non-assigning party an intended third party beneficiary under the written agreement with the assigning/subcontracting party.
- (3) No assignment or subcontract will release either party of its duties under the Agreement.

- B. Subcontracting. Contractor may engage a subcontractor to perform any portion of the Work, but only with the prior written consent of the Court. Any subcontracting without the Court's written consent is a material breach of the Agreement. Subcontractors will be subject to the same terms and conditions applicable to the Contractor under the Agreement and shall incorporate the Agreement into any subcontracting relationship. Contractor shall be liable for all subcontractor acts or omissions, including indemnity obligations.

- C. Successors. The Agreement binds the parties as well as their heirs, successors, executors, administrators, and assignees.

4. Audit; Ownership of Results; Retention of Records.

- A. Audit. Upon reasonable notice, Contractor will provide to the Court, to any federal or state entity with monitoring or reviewing authority, or to the Court's authorized representatives, access to and the right to examine and audit all records and documents relating to performance and billing under the Agreement, and, as necessary, to determine compliance with relevant federal, state, and local statutes, rules, and regulations, subject only to a lawyer's duty of confidentiality owed to a represented party. Contractor agrees to provide the Court with all relevant information requested, and will permit access to its premises at reasonable times, for the purpose of interviewing employees and inspecting and copying any relevant records. Unless otherwise agreed upon, Contractor shall correct errors and deficiencies by the 20th day of the month following the review or audit.
- B. Ownership. Unless otherwise provided in this Agreement, the Court is the exclusive owner of all Materials collected and produced in connection with the Work. Upon the Termination Date

(subject to any mutually agreed period of continuation of Work), or upon the Court's notice at any time, and subject only to the duty of confidentiality owed to a represented party, Contractor shall give original materials to the Court or to another party at the Court's direction.

- C. Copies. Contractor may retain copies of any original documents Contractor provides to the Court.
- D. Retention of Records. Contractor will maintain all financial data, supporting documents, and all other records relating to performance and billing under the Agreement for a period in accordance with state and federal law. The minimum retention period will be four (4) years from the date of the submission of the final payment request or until audit findings are resolved, whichever is later.

5. Change Orders.

- A. Due to the nature of the work to be accomplished by this Agreement, the specific goods, services, and timing needed may not be known until performance is underway. Therefore, the Court reserves the unilateral right to require Contractor to make changes in the Work that are within the scope of the Agreement without an Amendment by way of a Change Order issued by the Court's Project Manager. Such changes may include additions, deletions, or modifications to the Work, or changes in the timing or level of effort for the Work, as delineated in the Statement of Work.
- B. The Change Order documents the changes to be made, which may include: a) a description of the proposed change and the reasons for the change; b) a summary of the total compensation to be paid Contractor with a breakdown of tasks and costs, including any reduction in work or costs resulting from the change; and c) statement of the expected impact on the Work.
- C. Contractor should not proceed with any change until Contractor receives a Change Order from the Court's Project Manager. All costs for changes performed by Contractor without the Court's prior written approval will be at Contractor's sole risk and expense.

6. Choice of Law; Jurisdiction and Venue. California law, without regard to its choice-of-law provisions, governs the Agreement. Jurisdiction and venue for any legal action arising from the Agreement shall exclusively reside in Riverside, California, and the parties hereby consent to the jurisdiction and venue of such courts.

7. Confidential Information.

- A. Confidential Information. While performing Work under the Agreement, Contractor and its subcontractors may gain access to Confidential Information that, if disclosed to third parties, may be damaging to the Court, its personnel, court users, or other government entity. Neither Contractor nor its subcontractors acquires any right or title to the Confidential Information, and Contractor and its subcontractors agree not to disclose any Confidential Information to any third party. All Confidential Information disclosed to Contractor or its subcontractor will be held in strict confidence and used only in performance of Work under the Agreement. If the Court requests additional security measures to protect Confidential Information from disclosure, Contractor shall not unreasonably refuse or delay to adopt the same. In the event of any unauthorized disclosure or loss of Confidential Information, Contractor will immediately provide notice to the Court, with pertinent details of the unauthorized disclosure or loss, and any remedial measures taken.
- B. Permissible Disclosures. Contractor may disclose the Court's Confidential Information only on a "need to know" basis to Contractor's employees and subcontractors and any representatives of the Court who are working on the project and who have also executed confidentiality agreements that protect the Court's confidential information. Additionally, Contractor may disclose the Confidential Information, to the extent necessary to comply with any applicable law, rule, regulation, or ruling, provided Contractor gives advance notice to the Court.
- C. Publicity. Contractor shall not make any public announcement or press release about the Agreement without the prior written approval of the Court.

- D. Specific Performance. Contractor understands that a default under this section will result in irreparable damage for which no adequate remedy will be available. Accordingly, injunctive or other equitable relief is a remedy that the Court will be entitled to seek.

8. Conflict of Interest; Prohibition Against Gratuities.

A. Conflict of Interest.

- (1) Contractor covenants that it and its Subcontractors presently have no interest, and will acquire no interest, which would directly or indirectly conflict in any manner or to any degree, with the full and complete performance required under this Agreement. Contractor further agrees to submit full disclosure statements, if required by law to do so, pursuant to the requirements of the California Fair Political Practices Act or any other applicable federal or state law, regulation, or conflict of interest code.
- (2) Contractor and its Subcontractors and employees will not participate in proceedings that involve the use of Court funds or that are sponsored by the Court if the Contractor, its Subcontractors, or their employees, principals, partners, family members, or organizations have a financial interest in the outcome of the proceedings.
- (3) Contractor and its Subcontractors and employees will not engage in actions resulting in, or creating the appearance of:
 - (a) use of an official position with the government for private gain;
 - (b) preferential treatment to any particular person associated with this Work or Agreement;
 - (c) impairment of the Court's independence or impartiality;
 - (d) a decision made outside official channels; or
 - (e) adverse effects on the confidence of the public in the integrity of the Court.

B. Prohibition Against Gratuities.

- (1) Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, or representative of Contractor, to any officer, official, agent, or employee of the Court, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement.
- (2) For any breach or violation of this covenant, the Court has the right to terminate the Agreement for cause, wither whole or in part. Any loss or damage sustained by the Court in procuring, on the open market, replacement goods or services that Contractor agreed to provide, will be borne and paid for by Contractor. The Court's rights and remedies under this provision are in addition to any other rights and remedies provided by law or under this Agreement.

9. Consideration.

- A. The consideration paid to Contractor is the entire compensation for all Work performed under this Agreement, including all of Contractor's expenses incurred, such as travel and per diem expenses, unless otherwise expressly provided, as set forth in Exhibit C (Payment).
- B. Payment Does Not Imply Acceptance of Work. The Court's payment will not relieve Contractor from its obligation to replace unsatisfactory Work, even if the unsatisfactory character of such Work may have been apparent or detected at the time such payment was made. Work, Data, or components that do not conform to requirements of this Agreement will be rejected, and will be replaced by Contractor, without delay or additional cost to the Court.
- C. Disallowance. If Contractor receives payment from the Court for a service or reimbursement that is later disallowed or rejected by the Court, Contractor will promptly refund the disallowed amount

to the Court upon the Court's request. At its option, the Court may offset the amount disallowed from any payment due to Contractor, under this Agreement or any other agreement.

- D. Availability of Funds. The Court's obligation to compensate Contractor is subject to the availability of funds. The Court shall notify Contractor if funds become unavailable or limited during the term of the Agreement.

10. Contractor Certification Clauses. Contractor certifies that the representations below are true and will remain true throughout the term of this Agreement. Contractor shall have an affirmative duty to promptly notify the Court if any of these representations are not or are no longer true:

- (A) Authority. Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement. This Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and in good standing in the State of California.
- (B) Not an Expatriate Corporation. Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code § 10286.1, and is eligible to contract with the Court.
- (C) Sales and Use Tax Collection. Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- (D) No Gratuities. Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- (E) No Conflict of Interest. Contractor has no interest, and will not engage in any interest, that would constitute a conflict of interest under Public Contract Code §§ 10365.5, 10410 or 10411, which, in general, limit entering into follow-on contracts with a consultant who would benefit thereby from the consultant's advice provided under the first contract; Government Code §§ 1090 et seq. or §§ 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- (F) No Interference with Other Contracts. To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- (G) No Litigation. No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor's knowledge, threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse affect on Contractor's business, the validity or enforceability of this Agreement, or Contractor's ability to perform this Agreement.
- (H) Compliance with Laws Generally. Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services, and pays all undisputed debts when they come due.
- (I) Work Eligibility. All personnel assigned to perform this Agreement are able to work legally in the United States and possess valid proof of work eligibility.
- (J) Drug Free Workplace. Contractor provides a drug-free workplace as required by California Government Code §§ 8355 through 8357.

- (K) No Harassment. Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement, and Contractor takes all reasonable steps to prevent harassment from occurring.
- (L) Non-discrimination. Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and California's Fair Employment and Housing Act (Government Code §§ 12990 et seq.) and associated regulations (Code of Regulations, title 2, §§ 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- (M) Prohibition Against Hiring Court Employees. Contractor certifies and will require all Subcontractors to certify to the following: "Former Court employees will not be offered employment position for two years from the date of separation, if that employee participated in the decision-making process relevant to the Agreement, or for one year from the date of separation if that employee was in a policy-making position in the same general subject area as the proposed Agreement, within the prior twelve-month period of Court employment."
- (N) Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination. If this Agreement provides for total Compensation of more than \$100,000, Contractor is in compliance with Public Contract Code § 10295.3, which, subject to specified exceptions, generally prohibits discrimination in the provision of benefits between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees.
- (O) Special Provisions regarding Compliance with National Labor Relations Board Orders. If this Agreement provides for making any purchase of goods or services from a private entity, except for a purchase of goods by credit card for an amount less than \$2,500 from any one Contractor (but not to exceed in the aggregate \$7,500 per year from the Contractor), no more than one, final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board. Contractor swears under penalty of perjury that this representation is true.
- (P) Special Provisions regarding Compliance with the Sweatfree Code of Conduct. If this Agreement provides for the furnishing of equipment, materials, or supplies other than public works, or for the laundering of apparel, garments or corresponding accessories:
- (A) No apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the Court under this Agreement have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that it adheres to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code § 6108. This declaration is made under penalty of perjury.

- (B) Contractor cooperates fully in providing reasonable access to Contractor's records, documents, agents, and employees, and premises if reasonably required by authorized officials of the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (1) and shall provide the same rights of access to the Court.
- (Q) Special Provisions regarding Compliance with the Child Support Compliance Act. If Contractor is a private entity, and this Agreement provides for Compensation of \$100,000 or more:
- (1) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - (2) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- (R) Special Provisions regarding Discharge Violations. If Contractor is a private entity, Contractor is not in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; or subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions. Contractor has not been finally determined to be in violation of provisions of federal law relating to air or water pollution.
- (S) Special Provisions regarding the Electronic Waste Recycling Act. If this Agreement provides for the purchase or lease of covered electronic devices under the Electronic Waste Recycling Act of 2003, Public Resources Code §§ 42460 et seq., Contractor complies with the requirements of that Act, and Contractor maintains documentation and provides reasonable access to its records and documents that evidence compliance.
- (T) Special Provisions regarding Darfur Contracting Certification. Public Contract Code §§ 10475 – 10481 apply to any bidder or proposer that currently or within the previous three years has had business activities or other operations outside of the United States and seeks to submit a bid or proposal to the Superior Court of California, County of Riverside. Contractor certifies, UNDER PENALTY OF PERJURY, that it is either (a) not a scrutinized company as defined in Public Contract Code § 10476; or (b) is a scrutinized company that has been granted express permission by the Superior Court of California, County of Riverside to submit a bid or proposal. A bidder or proposer who has submitted a false certification may be liable for civil penalties or other measures.
- (U) Special Provisions regarding Plastic Trash Bag Law. Public Resources Code §§ 42290 et seq., requires any plastic trash bag supplier, manufacturer or wholesaler, or any of its divisions, subsidiaries, or successors, to be compliant with the Recycled Content Plastic Trash Bag Law, regardless of the goods or services being provided under the Agreement. Contractor certifies, UNDER PENALTY OF PERJURY, that it, and its divisions, subdivisions, and successors, comply with the Recycled Content Plastic Trash Bag Law, and shall continue to comply with the same throughout the term of any agreement executed under this competitive solicitation.
- (V) Special Provisions Regarding Parts Cleaning. If this Agreement involves parts cleaning, Contractor shall use recycled solvents, to the maximum extent economically feasible, in the performance of Work under this Agreement. Contractor further certifies, UNDER PENALTY OF PERJURY, that any post-consumer or secondary materials provided or used in the Work by Contractor meet all California minimum post-consumer content requirements.

11. Contractor Status.

- A. Independent Contractor. Contractor is an independent contractor to the Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the Court. Contractor has no authority to bind or incur any obligation on behalf of the Court. Except as expressly stated in Exhibit A (Statement of Work), Contractor has no authority or responsibility to exercise any rights or power vested in the Court. Contractor, its employees, or anyone working under Contractor, shall not qualify for workers' compensation or other fringe benefits of any kind through the Court. If any governmental entity concludes that Contractor is not an independent contractor, the Court may terminate the Agreement immediately upon notice. Alternatively, Contractor may agree to a reduction in the Court's financial liability, so that the Court's total costs under the Agreement do not exceed the Agreement Amount.
- B. Exclusive Control of Means and Method of Performance.
- (1) Contractor's employees will be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring, and termination, or any other employment issues or requirements of law, will be determined by Contractor.
 - (2) Contractor will issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's employees, consultants, and independent contractors.
 - (3) If the Internal Revenue Service or any other federal or state governmental entity should investigate or challenge Contractor's independent status with respect to the Court, the parties agree that (i) each will inform the other party of such investigation or challenge; and (ii) the Court will have the right, but not the obligation, to participate in any discussion or negotiation occurring with the federal or state entity, regardless who initiates such discussions or negotiations.
 - (4) Contractor will indemnify, defend, and hold the Court harmless from all claims, costs, and liabilities resulting from third-party actions alleging an employment relationship between the Court and any Contractor or Subcontractor personnel.
 - (5) Contractor will determine the method, details, and means of performing or supplying the Work under this Agreement. Contractor will be responsible to the Court only for the requirements and results specified in this Agreement and more particularly as set forth in Exhibit A (Statement of Work), and will not be subjected to the Court's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor will have the "right to control" and bear the sole responsibility for the job site conditions and safety.
- C. Permits, Laws, and Regulations.
- (1) Contractor must observe and comply with all applicable laws, rules, and regulations affecting the Work. During the term of this Agreement, Contractor will obtain and keep in full force and effect, all permits and licenses necessary to accomplish the Work, and ensure that all subcontractors performing Work under this Agreement comply with the same. Such permits and licenses will be made available to the Court, upon request.
 - (2) Contractor will promptly provide Notice to the Court of any conflict discovered between the Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict. If Contractor proceeds with the Work in question without resolution of the conflict, Contractor will be solely liable for any costs, fines, penalties, or damages that accrue, including costs for remedial work required to comply with such requirements.

12. Counterparts. This Agreement may be executed in counterparts, each of which is considered an original.

13. Default and Remedies.

A. Default. Unless otherwise provided, a default exists under this Agreement if:

- (1) Contractor fails or is unable to meet or perform any of Contractor's duties under this Agreement, or furnishes nonconforming Goods or Services, and this failure is not cured within ten (10) days' following notice of default or is not capable of being cured within this cure period;
- (2) Contractor or Contractor's creditors file a petition as to Contractor's bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business;
- (3) Contractor makes or has made under this Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading; or
- (4) Any act, condition, or thing required to be fulfilled or performed by Contractor to (i) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (ii) ensure that these obligations are legal, valid, and binding, or (iii) make this Agreement admissible when required is not fulfilled or performed.

B. Notice of Default. Contractor shall notify the Court immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement.

C. Remedies following Contractor Default.

(1) Available Remedies. The Court may do any of the following:

- (a) Withhold all or any portion of a payment otherwise due to Contractor, exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Court and Contractor, or charge to the Contractor any costs to the Court arising from Contractor's default, including costs to complete or correct the Work;
- (b) Require Contractor to enter into non-binding mediation;
- (c) Exercise, following notice, the Court's right of early termination of this Agreement as provided below; or
- (d) Seek any other remedy available at law or in equity.

(2) Remedies Cumulative. All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy.

14. Dispute Resolution. The Court and Contractor will attempt, in good faith, to resolve any disputes informally. Contractor will meet with the Court's Project Manager or other designated representative to discuss the matter and any actions necessary to resolve a dispute.

A. Escalation

- (1) If a dispute remains unresolved either party may give Notice requesting each party's Chief Executive Officer ("CEO") or designated representative to meet, exchange information and attempt resolution within fifteen days of the effective date of the Notice.

- (2) If the matter is not resolved as set forth above, the aggrieved party will submit a second Notice which will:
 - (a) provide detailed factual information;
 - (b) identify the specific provisions in this Agreement on which any demand is based;
 - (c) advise if the demand involves a cost adjustment and, if so, provide the exact amount, accompanied by all supporting records; and
 - (d) attach a declaration that the demand is made in good faith, the supporting data are accurate and complete, and the amount requested properly reflects the necessary adjustment. Notice will be signed by an authorized representative of the aggrieved party.
 - (3) Each party will comply with reasonable requests for additional information. Any additional information will be provided within fifteen (15) days after receipt of a written request, unless otherwise agreed.
- B. Confidentiality During Dispute Resolution. All dispute resolution negotiations are considered confidential, and will be treated as compromise and settlement negotiations, to which California Evidence Code § 1152 applies.
- C. Continued Performance of Work. Pending final resolution of any dispute, Contractor agrees to proceed diligently with the performance of the Work, including Work associated with the dispute, unless otherwise directed by the Court. Contractor's failure to diligently proceed in accordance with the Court's instructions will be considered a material breach of the Agreement.

15. Entire Agreement.

- A. Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and will not be used to interpret or determine the validity of this Agreement.
- B. This Agreement was negotiated between the parties, and neither party "prepared" this Agreement for purposes of California Civil Code § 1654. Any ambiguity will not be construed against the drafter, but rather the terms and provisions will be given a reasonable interpretation.
- C. This Agreement, including all referenced documents, constitutes the entire and final understanding of the parties regarding this matter, and supersedes and terminates any and all prior or contemporaneous negotiations, representations, understandings, discussions, offers, proposals, or agreements between the parties, whether written or oral, express or implied, relating in any way to the this matter, and is mutually binding on the parties in accordance with its terms.
- D. No agent, representative, employee or officer of either the Court or the Contractor has the authority to make, or has made, any oral statement, agreement or representation, in connection with the Agreement, which in any way can be deemed to modify, add to and detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No subsequent purchase order, invoice, or similar document containing conflicting terms and conditions issued by Contractor in conjunction with the performance of any party's duties and/or obligations due under the Agreement, shall be permitted to modify or contradict any of the terms and conditions of the Agreement.

16. Force Majeure.

- A. Force Majeure events include, but are not limited to:
 - (1) catastrophic acts of nature, or public enemy;
 - (2) civil disorder;

- (3) fire or other casualty for which a party is not responsible; and
- (4) quarantine or epidemic.

B. The party asserting a Force Majeure event will immediately provide Notice to the other party of the occurrence and nature of the Force Majeure event, and its expected impact on schedule. The party claiming Force Majeure will use commercially reasonable efforts to continue or resume performance, including alternate sources or means. Contractor will have no right to additional payment for costs incurred as a result of a Force Majeure event. Any assertion of a Force Majeure event by Subcontractors will be attributed to Contractor.

17. Indemnification.

- A. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend (with counsel satisfactory to the JBE Office of the General Counsel), the Judicial Branch Entities and Judicial Branch Personnel from and against any and all claims, damages, losses, judgments, liabilities, expenses, and other costs (including court fees, litigation or settlement costs, attorneys' fees, and attorneys' fees incurred in enforcing this indemnification clause) arising or resulting from, or in connection with, Contractor's performance of, or failure to perform, Work or Contractor's other duties under this Agreement, or any breach of this Agreement by Contractor or its officers, employees, agents, representatives, or Subcontractors. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.
- B. Contractor's obligation to defend, indemnify, and hold the Judicial Branch Entities and Judicial Branch Personnel harmless is not limited to, or restricted by, any requirement in this Agreement that Contractor procure and maintain insurance policies.

18. Infringement Protection. Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold the Judicial Branch Entities and Judicial Branch Personnel harmless from liability of any nature or kind, including costs and expenses, for any alleged or actual infringement or use of any copyrighted or un-copyrighted compositions, secret process, or patented or unpatented invention, article, or appliance furnished or used in connection with this Agreement.

19. Insurance Requirements. Section 6 of the Standard Agreement Cover Sheet document indicates which of the following insurance requirements sections (19.1 or 19.2) applies in this Agreement.

19.1 Insurance Requirements – General. Contractor shall maintain insurance that is sufficient in scope and amount to permit Contractor to pay in the ordinary course of business insurable claims, losses and expenses, including insurable claims, losses and expenses arising or resulting from, or in connection with Contractor's performance or breach of this Agreement, or be adequately self-insured for all risk, physical damage, and public liability. Contractor shall maintain employer's liability and workers' compensation coverage at California statutory levels covering all employees performing Work under this Agreement. Upon the Court's request, Contractor shall provide to the Court certificates of insurance and/or complete copies of all insurance policies maintained by Contractor to meet the insurance requirements contained in this paragraph.

19.2. Insurance Requirements – Additional Required Coverages.

- A. Minimum Scope and Limits of Coverage. If Section 19.2 is marked as applicable on the Standard Agreement Cover Sheet, paragraph 6 of the same indicates which of the specific insurance policies, as detailed below, are required under this Agreement, Contractor shall maintain the required minimum coverages in full force during the term of the Agreement.

- (1) Workers' Compensation or Employer's Liability Insurance. This policy is required only if Contractor has employees. It must include workers' compensation to meet the minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease.
- (2) Commercial General Liability Insurance. This policy must cover bodily injury, property damage, products (completed operations hazard and liability assumed in a contract), and personal and advertising injury, with minimum limits of \$1 million for each occurrence, combined single limit, and \$2 million aggregate.
- (3) Business Automobile Liability Insurance. This policy is required only if Contractor uses an automobile or other vehicle in the performance of this Agreement. This policy must cover bodily injury and property damage liability and be applicable to all vehicles used in the Contractor's performance of the Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit.
- (4) Professional Liability. This policy must cover liability resulting from errors or omissions committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1 million per claim.
- (5) Sexual Misconduct Insurance. This policy must cover bodily injury arising out of, resulting from, or in connection with the actual or threatened sexual abuse, molestation, or harassment of any person by Contractor's employees or any other person for whose acts Contractor may be held liable ("Contractor's Agents"), and the negligent employment, investigation, supervision, failure to report, or retention of Contractor's employees or Contractor's Agents for the actual or threatened sexual abuse, molestation, or harassment of any person. The minimum liability limit must be \$1 million per occurrence.
- (6) Commercial Crime Insurance. This policy must cover losses of Court Property arising or resulting from, or in connection with:
 - (a) The theft, robbery, burglary, disappearance, damage, or destruction of Court Property, including the cost of check reconstruction;
 - (b) Dishonest or fraudulent acts, including forgery, alteration, or the fraudulent transfer of Court Property;
 - (c) Losses or damage to any building, vehicle, safe, vault, or cash box within the control or possession of Contractor.

The minimum liability limit must be \$1 million per occurrence.

- (7) Umbrella Policies. Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.

B. Insurance Requirements Applicable to Required Policies.

- (1) Contractor shall maintain the minimum insurance set forth in this section with reputable insurer(s). All insurance policies shall be placed with insurers admitted in the State of California and having an A.M. Best rating of not less than A-.
- (2) By requiring such minimum insurance, the Court will not be deemed or construed to have assessed the risks applicable to Contractor. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

- (3) For full coverage, each insurance policy shall be written on an “occurrence” form, except for professional liability insurance, which may be made on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, for three (3) years, without lapse, from the date of termination or expiration of the Master Agreement and the Court’s acceptance of all Work provided under this Agreement. The retroactive date or “prior acts inclusion date” of any “claims made” policy must be no later than the date that the Work commences under this Agreement.
- (4) The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case, the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- (5) If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:
 - (a) *Separate*. Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or
 - (b) *Joint*. Joint insurance program with the association, partnership, or other joint business venture included as a named insured.
- (6) Deductibles and Self-Insured Retentions. The deductible and/or self-insured retentions shall not limit or apply to Contractor’s liability to the Court and shall be the sole responsibility of Contractor. Contractor shall declare to the Court all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the Court’s approval.
- (7) Endorsements; Additional Insureds. All required insurance policies will contain, or be endorsed to contain, the following provisions:
 - (a) Additional Insureds. The Superior Court of California, County of Riverside and its Personnel (including judges, officials, officers, employees, agents, and representatives) shall be covered as additional insureds for liability arising out of activities performed by, or on behalf of, Contractor under the Agreement.
 - (b) Primary Insurance; Waiver of Subrogation. Contractor’s insurance coverage shall be primary and non-contributory with any insurance or self-insurance maintained by the Court or Court Personnel. Contractor and its insurance carrier waive any and all rights of subrogation against the Court and Court Personnel.
 - (c) Separation of Insureds. Contractor’s insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer’s liability.
 - (d) Notice. All policies required of Contractor shall be endorsed to provide written notice to the Court of cancellation in coverage, non-renewal, or reduction of coverage within thirty (30) days.
- (8) Specific Wording for Certificate(s) of Insurance.
 - (a) The Certificate Holder name shall be: “The Superior Court of California, County of Riverside, and its Personnel (including judges, officials, officers, employees, agents).”

(b) Wording for the Additional Insured Endorsement shall be, in substance:

"The Superior Court of California, County of Riverside ("Court") and its Personnel are named as additional insureds on all above policies except workers' compensation."

"For each of the above policies, the coverage provided is primary and non-contributory with any insurance or self-insurance maintained by the Court. Additionally, each of the above policies apply separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability. The insurer waives any and all rights of subrogation against the Court."

"The above policies shall not be canceled, non-renewed or reduced in scope of coverage until after 30 days written notice has been given by the insurer to the Court."

C. Failure to Maintain Insurance / Failure to Provide Certificate(s) of Insurance.

- (1) If Contractor fails to maintain adequate insurance policies conforming to the above requirements, including the appropriate certificate holder/additional insured endorsements, primary/noncontributory and waiver of subrogation clauses, and amounts and extent of coverage, Contractor shall indemnify, defend (with counsel satisfactory to the Court), and hold harmless the Judicial Branch Entities and Judicial Branch Personnel from and be responsible to the Judicial Branch Entities and Judicial Branch Personnel for all claims, damages, losses, judgments, liabilities, expenses, and other costs, including court fees, litigation or settlement costs, attorneys' fees (including attorneys' fees incurred in enforcing this indemnification clause), arising or resulting from, or in connection with Contractor's performance or breach of this Agreement, notwithstanding any clause or amounts limiting the Contractor's liability to the Court. Contractor's failure to maintain adequate insurance policies conforming to the above requirements may be considered a breach of this Agreement.
- (2) Before Contractor begins Work, Contractor shall give the Court certificates of insurance attesting to the existence of adequate coverage. All certificates of insurance and replacement certificates of insurance are subject to the approval of the Court. Certificate(s) of insurance shall be submitted to the Court's Contracts Representative listed in the Agreement. Submission of certificates of insurance (or lack thereof) and/or their approval by the Court shall not relieve the Contractor of its obligation to ensure that all required insurance policies conform to all foregoing requirements, and to ensure that any exclusions contained in such policies do not unduly or unfairly restrict the coverages required by the Court. Upon the Court's request at any time, Contractor shall provide: (1) complete copies of each required policy; and (2) the same evidence of insurance for its subcontractors as the Court requires of Contractor.
- (3) If at any time, the foregoing policies become unsatisfactory to the Court, as to form or substance, or if a company issuing any such policy becomes unsatisfactory to the Court, Contractor shall, upon written notice from the Court, promptly obtain a new policy, and submit the same to the Court, with the appropriate certificates and endorsements.
- (4) If any of the required policies lapses during the Term, the Court is not required to process invoices after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

- 20. Limitation of Liability.** The Court will not be liable to Contractor, its officers, employees, Subcontractors, or Third Parties for any indirect, special, or consequential damages, including lost profits or revenue, arising from or relating to this Agreement, regardless whether the Court was advised of the possibility of such loss or damage. In no event will the Court's liability for direct damages arising from or related to this Agreement, for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, exceed the amounts paid to Contractor by the Court under this Agreement. Neither the Court nor Court Personnel will be personally responsible for liabilities arising under this Agreement.
- 21. Loss Leader.** Contractor shall not sell or use any article or product as a "loss leader" as defined in section 17030 of the Business and Professions Code.
- 22. Modification.** No modification or change to this Agreement, including any changes to Exhibit A (Statement of Work), shall be valid without the written approval of the Court, in the form of an Amendment.
- 23. Non-Exclusivity.** This is a non-exclusive agreement. The Court reserves the right to perform, or have others perform the Work for this Agreement. The Court further reserves the right to bid the Work to others or procure the Work by other means.
- 24. Notices.** Notices under this Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid). Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be treated as effective on the first day that the notice was refused, unclaimed, or deemed undeliverable. Notices must be addressed to the other Party's Contract Representative as designated in the Standard Agreement Cover Sheet. Either party may change its address for receipt of notice by entering a different recipient and address below or by giving notice at any time to the other party in the manner permitted by this paragraph.
- 25. Prior Work.** Prior work, performed by Contractor pursuant to the Court's authorization, but before execution of this Agreement, will be considered as having been performed subject to the provisions of this Agreement.
- 26. Prohibited Bids for End Product of this Agreement ("Follow-On Contracts").**
- A. If Contractor or its affiliates provides Consulting and Direction (as defined below), the Contractor and its affiliates: (i) shall not submit a bid or be awarded a subsequent contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Consulting and Direction; and (ii) will not act as consultant to any person or entity that does receive a contract described in sub-section (i).
 - B. "Consulting and Direction" means services for which Contractor received compensation from the Court and includes: (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies; (ii) development or design of test requirements; (iii) evaluation of test data; (iv) direction of or evaluation of another contractor; (v) provision of formal recommendations regarding the acquisition of Information Technology products or services; or (vi) provisions of formal recommendations regarding any of the above. For purposes of this section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.
 - C. To the extent permissible by law, the Court may waive the restrictions set forth in this section by written notice to Contractor if the Court determines their application would not be in the Court's best interest. Except as prohibited by law, the restrictions of this section will not apply: (i) to follow-on advice given by vendors of commercial off-the-shelf products, including software and

hardware, on the operation, integration, repair, or maintenance of such products after sale; (ii) to contractors that were awarded a subcontract of the original consulting service contract that amounted to no more than ten (10) percent of the total monetary value of the original consulting services contract; or (iii) where the Court has entered into a master agreement for software or services and the statement of work at the time of Agreement execution expressly calls for future recommendations among Contractor's own products.

- D. The restrictions set forth in this section are in addition to conflict of interest restrictions imposed on public contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this section, even if enacted after execution of this Agreement.

27. Public Access to Records and Information.

- A. Rule 10.500 of the California Rules of Court sets forth comprehensive access provisions applicable to administrative records (which includes, among other things, agreements and amendments) maintained by a trial court. The Court will make identifiable administrative records available upon request, unless the records are exempt from disclosure under Rule 10.500. Please be aware that an agreement or amendment may be considered a public record and be made available to anyone who requests a copy.
- B. If an agreement or amendment contains material noted or marked by the Contractor as "Confidential" and/or "Proprietary" that, under Rule 10.500 would be exempt from public disclosure, then that information will presumptively not be made available to the public. If the Court considers that under Rule 10.500 such material is not exempt from public disclosure, the material may be made available to the public, regardless of the Contractor's notation or markings. If a Contractor is unsure if its confidential and/or proprietary material would fall within the disclosure exemption requirements of Rule 10.500, then it should carefully consider whether to include such information in an agreement or amendment because such information may be disclosed to the public.

28. Public Contract Code. Part 2.5 of the California Public Contract Code (§§ 19201 – 19210), cited as the California Judicial Branch Contract Law, requires the Judicial Branch (including the Court) to comply with provisions in the Public Contract Code that apply to state agencies and departments regarding the procurement of goods and/or services. The California Judicial Branch Contract Law applies to all contracts initially entered into or amended by Judicial Branch entities (including the Court) on or after October 1, 2011.

29. Scope of Work; Acceptance; Rejection.

- A. Scope of Work. Contractor will perform and complete all Work described in Exhibit A (Statement of Work), in compliance with the requirements of this Agreement, and to the satisfaction of Court. Contractor shall strictly adhere to the delivery and completion schedules specified in the Statement of Work. Time, if stated as a number of days, shall mean calendar days unless otherwise specified.
- B. Acceptance. Notwithstanding any prior inspection or payments, all Goods and Services delivered hereunder shall be subject to final inspection and acceptance or rejection by the Court within a reasonable time after delivery to the Court. Until Work is completed and accepted by the Court, the risk of loss or damage to the Work shall remain with Contractor. All items which are not in compliance with the specifications hereof, which are not as warranted or which are shipped late, shipped in excess or insufficient quantities, or substituted for items ordered hereunder may be rejected by the Court and returned or held at Contractor's expense and risk. No damages or extras will be allowed for unforeseen difficulties or obstructions. Payment shall not constitute an acceptance of the Goods, Services, or Work nor impair the Court's right to inspect or any of its remedies. Contractor shall immediately refund any payment made in error.

C. Rejection. The Court may reject any Goods, Services, or deliverables that: (i) fail to meet applicable requirements or acceptance criteria; (ii) are not as warranted; or (iii) are performed or delivered late. The Court's Project Manager may apply any acceptance criteria set forth in Exhibit A (Statement of Work) (including timeliness, completeness, technical accuracy, and conformance to statistical, industry or marketplace standards) to determine acceptance or non-acceptance of the Work.

(1) If the Work is not acceptable, the Court's Project Manager shall detail Contractor's failure to meet the acceptance criteria. Contractor shall have ten (10) business days from receipt of the Court's notification of non-acceptance to correct the failure(s) to conform to the acceptance criteria. Contractor will re-submit the Work and the Court's Project Manager shall re-apply the acceptance criteria to determine its acceptance or non-acceptance. Thereafter, the parties shall repeat the process set forth in this section until Contractor's receipt of the Court's written acceptance of such corrected Work; provided, however, that if the Court rejects any Work on at least two (2) occasions, the Court may terminate that portion of this Agreement which relates to the rejected Work at no expense to the Court.

(2) If the Court rejects any Goods, Services, or other deliverables after payment to Contractor, the Court may exercise all contractual and other legal remedies, including: (i) setting off the overpayment against future invoices payable by the Court; (ii) setting off the overpayment against any other amount payable for the benefit of Contractor pursuant to this Agreement or otherwise; and (iii) requiring Contractor to refund the overpayment within thirty (30) days of the Court's request.

30. Shipping and Packing Slips. Time is of the essence to delivery and any other performance required of Contractor. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or any other purpose shall be paid by the Court unless it is expressly included on the face of this Agreement. Unless stated otherwise, shipping point for all deliveries under this Agreement shall be FOB "destination", and on "FOB Shipping Point" transactions, Contractor shall arrange for lowest-cost transportation, prepay and add freight to its invoice, and furnish supporting freight bills over \$25. If delivery is to be made by a carrier, an itemized delivery ticket must be attached to the outside of the package. Each container must be marked with the Agreement number, part number, and quantity. Any itemized packing slip bearing the Court's Agreement number as shown thereon must be left with the Goods to insure their receipt.

31. Standard of Performance; Warranties; Personnel Requirements; Background Checks.

A. Standard of Performance. Contractor will perform all Work with the requisite skill and diligence consistent with professional standards for the industry and type of work performed under the Agreement, and pursuant to the governing rules and regulations of the industry. Contractor acknowledges that the Court relies on the accuracy, competence, and completeness of Contractor's services.

B. Warranties.

(1) For a period of one (1) year, unless the Agreement or the warranties provided by a third party for Goods or Services procured by Contractor provide for a longer warranty period, Contractor expressly warrants that the Goods and Services covered by the Agreement are: 1) free of liens or encumbrances; (2) merchantable and good for the ordinary purposes for which they are used; and (3) fit for the particular purpose for which they are intended; (4) free from all defects in materials and workmanship; (5) to the extent not manufactured pursuant to detailed designs furnished by the Court, free from defects in design; and (6) conform to the requirements of this Agreement. The Court's approval of designs or specifications furnished by Contractor will not relieve Contractor of its obligations under this warranty.

(2) Contractor agrees to indemnify, defend, and hold the Court and Court Personnel harmless from liability, loss, damage and expense, including reasonable attorney's fees, incurred or

sustained by the Court by reason for the failure of the Goods or Services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industry Safety Act. Such remedies shall be in addition to any other remedies provided by law.

- (3) Contractor represents and warrants to the Court that it owns, will own, is authorized, or will be authorized to use for its own and the Court's benefit, all intellectual property rights used and to be used in connection with providing and/or performing the Work.
- (4) All warranties will inure to the Court, its successors, assigns, customer agencies, and users of the Work provided hereunder. Contractor shall not take any action, or fail to perform any act that results in a warranty or representation becoming untrue. Contractor shall promptly notify the Court if any warranty or representation becomes untrue.
- (5) Unless otherwise specified, the warranties set forth in this Section commence after Work has been accepted by the Court.

C. Personnel Requirements.

- (1) Contractor shall use adequate numbers of qualified individuals with sufficient training, education, experience, and skill to successfully perform the Work.
- (2) If the Court is dissatisfied with any of Contractor's personnel for any reason, Contractor shall immediately replace them with qualified personnel upon receipt of the Court's Notice. Otherwise, Contractor shall endeavor to minimize turnover of personnel Contractor assigned to perform the Work under this Agreement. Contractor will be responsible for all costs associated with replacing personnel, including additional costs to familiarize replacement personnel with the Work. If Contractor does not promptly furnish replacement personnel acceptable to the Court, the Court may terminate the Agreement for cause.

D. Background Checks.

- (1) The Court shall have the right, but not the obligation, to request or conduct background checks on any of Contractor's personnel, its subcontractors' personnel, or agents performing Work under the Agreement.
- (2) Contractor shall cooperate with the Court if the Court decides to perform background checks by obtaining, at no additional cost, all releases, waivers, and permissions the Court requires. Contractor shall provide prompt Notice to the Court of: (i) any person refusing to undergo any such background checks; and (ii) the results of any background checks as requested by the Court. Contractor may not assign to perform Work under this Agreement any personnel or any subcontractor's personnel who refuse to undergo a background check, and shall immediately remove such personnel from performing Work under this Agreement.
- (3) The Court, in its sole discretion, shall determine whether Contractor's or its subcontractors' personnel or agents have passed the background checks required by the Court. No background information will be released to the Contractor or its subcontractors.

32. Stop Work.

- A. The Court may, at any time, by delivery of a written Stop Work Order to Contractor, require Contractor to stop any or all of the Work, for ninety days after the Stop Work Order is delivered to Contractor, and for any further period to which the Parties may agree.
- B. Upon receipt of the Stop Work Order, Contractor will immediately comply with its terms and take all reasonable steps to minimize the costs incurred to the Court during the applicable Stop Work

period. Within ninety days after a Stop Work Order is delivered to Contractor, or within any mutually agreed extension of that period, the Court will either cancel the Stop Work Order or terminate the Work, as provided in the Termination provisions.

- C. If a Stop Work Order is cancelled, or the period of the Stop Work Order or any extension thereof expires, Contractor will resume Work. The Court may make an equitable adjustment in the delivery schedule, the Agreement Amount, or both, if (i) the Stop Work Order increases Contractor's costs or the time required for performance; and (ii) Contractor asserts its right to an equitable adjustment within thirty days after the end of the applicable Stop Work period.
- D. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated other than for cause, the Court may allow reasonable costs resulting from the Stop Work Order.
- E. The Court will not be liable to Contractor for loss of profits because of any Stop Work Order.

33. Survival. Terms that will survive termination or expiration of this Agreement include those relating to, but are not limited to: assignment, audit rights and retention of records, confidentiality, indemnification, limitation of liability, and warranties.

34. Termination.

- A. Termination for Cause. The Court may terminate the Agreement, in whole or in part, for cause, upon thirty (30) days written notice. The Court shall be relieved of any payments, if Contractor fails to perform the requirements of the Agreement at the time and in the manner agreed. The Court may also cancel delivery immediately of all or any portion of unshipped goods or limit Contractor's Work and, proportionately, Contractor's compensation. The Court may proceed with the Work in any manner deemed proper. All costs to the Court arising from Contractor's default, including costs to complete or correct the Work, will be deducted from any sum due to Contractor. Contractor will not be entitled to recover overhead or profit on the uncompleted portions of the Work.
- B. Termination for Convenience. The Court may terminate the Agreement, in whole or in part, at any time, for any or no reason, upon at least thirty (30) days written notice to Contractor. Upon receipt of notice of termination, Contractor will promptly discontinue Work as specified in the Notice. The Court will pay Contractor for the Work satisfactorily performed prior to the termination. Contractor will not recover overhead or profit on the uncompleted portions of the Work.
- C. Termination due to Fund Non-Appropriation and/or Availability.
 - (1) The Court's obligations under this Agreement are subject to the availability of funds authorized for this Work. Expected or actual funding may be withdrawn, reduced, or limited prior to the expiration or other termination of this Agreement. Funding beyond the current Appropriation Year is conditioned upon appropriation of sufficient funds to support the activities described in this Agreement.
 - (2) Upon Notice, the Court may terminate this Agreement in whole or in part, without prejudice to any right or remedy of the Court, for lack of appropriation of funds. Upon termination, the Court will pay Contractor for the fair value of Work satisfactorily performed prior to the termination, not to exceed the total Agreement Amount.
- D. Effect of Termination. Upon the Termination Date:
 - (1) The Court shall be released from compensating Contractor for Work, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs. Without prejudice to the Court, Contractor shall be released from performing Work.

- (2) Court will have the right to take possession of any materials, equipment, and other Work including partially completed Work. Contractor shall return to the Court any equipment purchased or built with Court funds, with costs incurred by Contractor being reimbursed by the Court. Unless otherwise provided in this Agreement, Contractor will immediately assign to the Court all of Contractor's right, title, and interest in and to such Work, related materials, work product, and any and all intellectual property rights.
- (3) Upon termination of any kind, the Court may withhold from payment any sum that the Court determines to be owed to the Court by Contractor, or as necessary to protect the Court against loss due to outstanding liens or claims of former lien holders.

35. Time is of the Essence. Time is of the essence in the performance of Work by Contractor under this Agreement.

36. Travel Rate Guidelines. Contractor's travel expenses are not reimbursable by the Court, unless the Agreement expressly indicates that the Court will reimburse such expenses. Unless otherwise specified in the Agreement, the Court's policies and limits on reimbursable travel-related expenses, consistent with the Administrative Office of the Courts' travel policies, are listed below. Dollar amounts stated in this section may be adjusted unilaterally by the Court from time to time. Contractor should contact the Court with any questions about the current dollar amounts. Contractor shall endeavor to use the most economical mode of travel whenever possible. Original receipts are required for each claimed item. When a receipt cannot be obtained, an explanation must be given, and proof of payment must be submitted. If requested by the Court, Contractor shall complete the Court's reimbursement claim forms as a condition of receiving any reimbursement from the Court. Contractor shall notify the Court of any anticipated travel prior to booking, which must be pre-approved by the Court.

- A. Lodging. All lodging reimbursements require a valid receipt from a commercial lodging establishment that caters to the general public. Lodging will not be reimbursed without submission of a valid receipt. Each day of lodging claimed must be listed separately for the actual amount up to the maximum allowed below.
 - (1) In-state: Actual costs are reimbursable up to a maximum of \$110 per day, plus tax and energy surcharge. When required to conduct official court business and obtain lodging in the counties of Alameda, San Francisco, San Mateo, and Santa Clara, the maximum rate allowed is \$140, plus tax and energy surcharge.
 - (2) Out-of-state: Actual costs are reimbursable only with the Court's prior approval.
 - (3) Conference or convention lodging: Lodging reimbursement for conferences and conventions sponsored by the Court shall not be in excess of the in-state rate unless Contractor is staying at the conference site. Only the single occupancy rate may be claimed for reimbursement except when sharing a room with other Contractor personnel also traveling in performance of this Agreement.
- B. Meals. If the cost of a meal is included in airfare, lodging, conference, or convention, no reimbursement shall be claimed for that meal. The Court will not reimburse for alcoholic beverages of any kind.
 - (1) For continuous travel of more than 24 hours, actual costs for breakfast, lunch, dinner, and incidentals for each 24 hour period are reimbursable up to the maximum rate (which includes tax and tip) as follows:
 - (a) Breakfast: Up to \$6.
 - (b) Lunch: Up to \$10.
 - (c) Dinner: Up to \$18.
 - (d) Incidentals (e.g., tips for non-meal related expenses such as taxis): Up to \$6.
 - (2) For continuous travel of less than 24 hours, actual costs up to the above maximum limits are reimbursable in accordance with the following conditions:
 - (a) Breakfast may be claimed only if travel begins one (1) hour before normal work hours.

- (b) Dinner may be claimed only if travel ends one (1) hour after normal work hours.
 - (c) Neither lunch nor incidentals may be claimed for a trip of less than 24 hours.
- C. **Transportation.** The actual and reasonable cost of tickets for air, rail, bus, rental car, or other forms of public transportation is reimbursable. The lowest cost ticket available must be purchased, and Contractor's "convenience" is not a valid justification for purchasing more expensive tickets. Receipts are required for rental cars and air travel. For ticketless travel, the traveler's itinerary may be submitted in lieu of a receipt.
 - (1) **Airfare.** All air travel arrangements should be made through the Court.
 - (2) **Ground Transportation.** The reasonable costs of cab fare, public parking, and tolls are reimbursable.
 - (3) **Rental Vehicles.** The Court's Purchasing Division and the State Department of General Services have contracted with several rental car agents for daily, weekly, and monthly rates for the lease of vehicle for Court business. Contractor must contact the Court prior to renting any vehicles. Insurance offered by the rental agent is not reimbursable, and all rental vehicles must be refueled prior to their return. Refueling charges at rental car rates are not reimbursable.
 - (4) **Mileage.** Personal vehicle mileage is reimbursable at the mileage reimbursement rate established by the IRS that corresponds to the date(s) of travel and in accordance with the Court's mileage reimbursement policy. The reimbursement rate includes all costs related to the operation and maintenance of the vehicle, including both liability and comprehensive insurance.
- D. **Business Expenses.** Reimbursement is allowed for the reasonable costs of fax service, e-mail, telegrams, and business telephone calls. Telephone charges must be itemized by day with location, phone number, and person(s) called.
- E. **Cancellation of Travel or Missed Travel.** Contractor shall be responsible for all expenses or charges incurred as a result of Contractor's cancellation of travel or Contractor's failure to make a scheduled travel, regardless of whether travel was booked by Contractor or the Court, unless the cancellation or failure to make such travel was due to an emergency as determined in the Court's sole discretion.

37. Waiver; Severability.

- A. **Waiver of Rights.** The Court's action, inaction, or failure to enforce any right or provision of this Agreement is not a waiver of its rights, and will not prevent the Court from enforcing such rights on any future occasion. A Court-specific waiver does not constitute a waiver by the Court of any earlier, concurrent, or later breach or default.
- B. **Severability.** The provisions of this Agreement are separate and severable. If any part of the Agreement is held invalid or unenforceable, all other parts remain valid or enforceable, unless prohibited by applicable state and federal law.
- C. **Waiver of Jury Trial.** To the extent enforceable under California law, each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding, or counterclaim brought by any party hereto against the other (and/or against its judges, subordinate judicial officers, officers, administrators, agents, representatives, and employees) on or with regard to any matters whatsoever arising out of or in any way connected with the Agreement and/or any other claim of injury or damage.

- 38. Work Site.** With respect to Work delivered and/or performed on the Court's premises, Contractor has the responsibility to inform itself fully and shall assume the risk as to the physical conditions at the worksite, including as applicable: (1) the availability, location, and extent of construction and storage

areas and other facilities or structures above and below ground, but not limited to gas, water, sewer, electrical, and communication utilities; (2) necessary safety precautions and safeguards; (3) work to be performed by Contractor or others; (4) rules, regulations, and requirements to be observed by Contractor in the conduct of the Work. Lack of knowledge of existing conditions will not be accepted as an excuse for failure to perform the specified Work, nor shall such excuse be accepted as a basis for claims or additional compensation. Contractor shall conform to any specific safety requirements as required by law or regulation. Contractor shall take any additional precautions as the Court may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of the Agreement.

39. Miscellaneous Provisions Applicable to Specific Contracting Situations.

- A. Agreements providing for Compensation of \$50,000 or More; Union Activities Restrictions. As required under Government Code §§ 16645-16649, if this Agreement provides for total Compensation of \$50,000 or more to Contractor, then the covenants in this subsection apply to Contractor's activities.
- (1) Contractor shall not:
 - (a) Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
 - (b) Use the state's or the Court's funds received under this Agreement to assist, promote or deter union organizing; or
 - (c) For any business conducted under this Agreement, use any property of the state or the Court to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state or judicial branch property is equally available to the general public for holding meetings.
 - (2) If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from the state's and the Court's funds has been sought for these costs, and provide those records to the Attorney General upon request.
- B. Provisions Applicable to Certain Services with Compensation Over \$200,000. If this is an Agreement for services, other than consulting services, with total compensation over \$200,000, Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code § 11200 in accordance with Public Contract Code § 10353.
- C. Provisions Applicable to DVBE Participation Certification. If Contractor made a commitment to achieve disabled veterans business enterprise participation, Contractor shall within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the Court: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any disabled veterans business enterprises (DVBE) that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.
- D. Provisions Applicable to Equipment Purchases.
- (1) If this Agreement provides Compensation to Contractor for a project funded through a grant, at the conclusion of the Project, title to all expendable and non-expendable personal property with a value of \$500 or more purchased with Court funds shall vest, automatically and without further action of the parties, with the Court. If Contractor provides written certification to the Court that the property will continue to be used for grant-related purposes and the Court approves such certification in writing, the Court may permit title to all such property to remain

with Contractor in accordance with the Court's written instructions. Contractor must await specific written instructions from the Project Manager regarding any transfer of title or disposition.

- (2) If Compensation under this Agreement is not through grant funding and this Agreement provides for the provision of equipment purchased or built with Court funds, title to any equipment purchased or built with Court funds shall vest in the Court immediately upon payment of the purchase price. Before delivery to the Court, Contractor is responsible for loss or damage to the equipment to the extent it results from the negligent act or omission of Contractor or its directors, officers, employees, or agents, and Contractor shall make all necessary or appropriate repairs and adjustments.
- (3) Contractor shall maintain an inventory record for each piece of equipment purchased or built with Court funds provided under the Agreement, except for a piece of equipment that (i) has a normal life expectancy of less than one year, or (ii) costs less than \$5,000 and is not easy to steal. The inventory record must include the date acquired, total cost, serial number, model identification, and any other information or description necessary to identify the piece of equipment. Upon request by the Court, Contractor shall submit to the Court a copy of the inventory record.

E. Provisions Applicable to Competitively Bid Contracts; Antitrust Claims. If Work under the Agreement was obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.

- (1) The Government Code chapter on antitrust claims contains the following definitions:
 - (a) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of § 16750 of the Business and Professions Code.
 - (b) "Public purchasing body" means the state or the subdivision or agency making a public purchase. See Government Code § 4550.
- (2) Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under § 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2, commencing with section 16700 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Court pursuant to the bid. Such assignment shall be made and become effective at the time the Court tenders final payment to the Contractor. See Government Code § 4552.
- (3) If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. See Government Code § 4553.
- (4) Upon demand in writing by the Contractor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (i) the Court has not been injured thereby, or (ii) the Court declines to file a court action for the cause of action. See Government Code § 4554.

F. Provisions Applicable to Federal or Federally Assisted Contracts; Prevailing Wages. This subsection applies only to federal and federally assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

- (1) Contractor shall comply with all requirements of the Davis Bacon Act and all Related Acts (40 USC 276(a); 29 CFR 1, 3, 5, 6 & 7) and all related state, county, city and local acts, rules and regulations mandated prevailing wage requirements (e.g. Labor Code §§ 1720-1861; California Code of Regulations, Title 8, §§ 16000-16403). These citations are provided as reference only and not to be interpreted as all-inclusive. Contractor is responsible for complying with all applicable federal, state and local prevailing wage requirements whether referenced or not.
- (2) The David Bacon Act requires that all contractors and subcontractors performing on federal contracts (and contractor and subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000.00 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits (as determined by the Labor Department) for corresponding classes of laborers and mechanics employed on similar projects in the area. Prevailing Wage rates as determined by the Department of Industrial Relations for corresponding classes of laborers and mechanics employed on similar projects in the area are available on the website of the Department of Industrial Relations, Prevailing Wage Unit at www.dir.ca.gov/DLSR/PWD.
- (3) Apprentices and trainees may be employed at less than predetermined rates. Apprentices must be employed to an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees must be employed pursuant to a training program certified by the Department.
- (4) Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.
- (5) Contractors and subcontractors on prime contracts in excess of \$100,000 are also required, pursuant to the Contract Work Hours and Safety Standard Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract work in a workweek.

G. Provisions Applicable to Consulting Services.

- (1) If this Agreement provides for the payment of \$1,000 or more for consulting services, Contractor must deliver detailed performance criteria, a schedule for performance, and progress reports to the Court to allow the Court to determine whether Contractor is on the right track and the project is on schedule, to provide communication of interim findings, and to afford opportunities for airing difficulties or special problems encountered so that remedies can be developed quickly.
- (2) If this Agreement provides for the payment of \$5,000 or more for consulting services, Contractor shall attach to this Agreement resumes of each Contractor participant who will exercise a major administrative role or major policy or consultative role. Contractor shall use reasonable efforts to make these participants available to perform Services during the term of this Agreement.

H. Provisions Applicable to Legal Services. If this Agreement provides for the performance of legal services, Contractor shall adhere to any legal cost and billing guidelines, legal budgets, and legal bill or law firm audits as may be required by the Court. If this Agreement does not provide for legal representation to low-income or middle-income persons in civil, criminal, or administrative matters, Contractor shall also adhere to any litigation plans or case phasing of activities as may be required by the Court. If this Agreement does not provide for legal representation to low-

income or middle-income persons in civil, criminal, or administrative matters, and also provides for Compensation (other than reimbursement of expenses) over \$50,000, Contractor shall also comply with the requirements of Business and Professions Code § 6072, which concerns the performance of pro bono legal services.

- (1) Under Business and Professions Code § 6072, Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the Agreement equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in California, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10 percent of this Agreement. Failure to make a good faith effort may be cause of non-renewal of this Agreement or another judicial branch or other state contract for legal services, and may be taken into account when determining the award of future contracts with the Court for legal services.
- I. Provisions Applicable to Commercial Office Moving Services Agreements. If this is an agreement of more than \$2,500 with a carrier for commercial office moving services, Contractor shall abide by the requirements contained in the State Administrative Manual, section 3810, which requires the Contractor to employ only drivers and supporting personnel who are under a current collective bargaining agreement or who are paid applicable prevailing wages and employed under prevailing standards and conditions of employment.
- J. Provisions Applicable to Document Printing Agreements. If this Agreement is for printing documents, Contractor shall use recycled products, to the maximum extent economically feasible, in the performance of Work under this Agreement. Contractor shall certify in writing under penalty of perjury, upon completion of performance of this Agreement, the minimum percentage of post-consumer and secondary materials provided or used in the Work.
- K. Provisions Applicable to Elevator Maintenance Agreements. If this Agreement provides for elevator maintenance, the Term of this Agreement shall be for a period of no less than five (5) years even if the Coversheet of this Agreement specifies a shorter term; however, this Agreement may be terminated during the Term in accordance with the Termination provisions contained herein.
- L. Provisions Applicable to Janitorial Services or Building Maintenance Agreements. If this is a janitorial or building maintenance agreement, Contractor shall use paper-containing products only if they contain recycled paper. Upon completion of performance of this Agreement, Contractor shall certify in writing under penalty of perjury the minimum percentage of post-consumer and secondary materials provided or used in the Services. If this Agreement requires Contractor to perform Services at a new site, Contractor shall retain for 60 days all employees currently employed at that site by any previous contractor that performed the same services at the site. Contractor shall provide upon request information sufficient to identify employees providing janitorial or building maintenance services at each site and to make the necessary notifications required under Labor Code §§ 1060 et seq.
- M. Provisions Applicable to Mined Mineral Agreements. If this Agreement involves the purchase of mined minerals, Contractor shall not supply through this Agreement any sand, gravel, aggregates, or other minerals a Court may not purchase under Public Contract Code § 10295.5.
- N. Provisions Applicable to Parts-Cleaning Agreements. If this Agreement involves parts cleaning, Contractor shall use recycled solvents, to the maximum extent economically feasible, in the performance of Work under this Agreement. Contractor shall certify in writing under penalty of perjury, upon completion of performance of this Agreement, the minimum percentage of post-consumer and secondary materials provided or used in the Work.
- O. Provisions Applicable to Rental Agreements. If this Agreement provides for the rental of personal property, the Court shall have no responsibility for loss or damage to the rented equipment arising from causes beyond the Court's control. The Court is responsible for repairs and liability for

damage or loss only to the extent they become necessary and result from a negligent act or omission of the Court or any Court Personnel. If this Agreement provides for the rental of equipment or other personal property and the Court has not expressly elected through this Agreement to maintain the equipment or other personal property, Contractor shall keep the equipment in good working order and make all necessary or appropriate repairs and adjustments without qualification.

- P. Provisions Regarding Material Safety Data Sheets. If some or all of the Goods provided by Contractor under this Agreement are on CAL OSHA's "Hazardous Substances List," Contractor shall forward a completed Material Safety Data Sheet (MSDS) to the Court.
- Q. Provisions Regarding Recycled Goods. Unless otherwise provided in the Statement of Work, pursuant to Public Contract Code § 12203(d), Contractor shall use recycled products, to the maximum extent economically feasible, in the performance of Work under this Agreement, but only if the fitness and quality of such recycled products are equal to non-recycled products.
- (1) If this Agreement provides for the sale of goods, regardless of whether the goods are specified in Public Contract Code § 12207, Contractor shall sell under this Agreement only recycled products if fitness and quality are equal to non-recycled products and recycled products are available to the Court at the same or lesser total cost as non-recycled products.
- (2) If this Agreement provides for the purchase and sale of goods specified in Public Contract Code § 12207 (for example, certain paper products, office supplies, mulch, glass products, lubricating oils, plastic products, paint, antifreeze, tires and tire-derived products, and metal products), and the percentage of Contractor's postconsumer material in these goods cannot be verified by reference to a written advertisement, including, for example, a product label, a catalog, or a manufacturer or vendor website:
- (a) Contractor has delivered a declaration to the Court specifying the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code § 12200 in Goods offered or sold to the Court, regardless of whether the Goods meet the requirements of Public Contract Code § 12209.i;
- (b) Under penalty of perjury, the declaration is true and correct and will remain so until Contractor delivers any amendment of a the current declaration to the Court, in which case the current declaration as amended will be true and correct; and
- (c) If Contractor sells under this Agreement any printer or duplication cartridges that comply with Public Contract Code § 12209, Contractor has so specified in the declaration required under this section.

END OF STANDARD BUSINESS DEFINITIONS, TERMS AND CONDITIONS
